



Provided by

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Introduction

Today, advances in medicine and medical technology save many lives that only 60 years ago might have been lost. Unfortunately, sometimes this same technology also artificially prolongs life for people who have no reasonable hope of recovery.

No one likes to think about death and dying, but they are inescapable realities of life. Armed with the information and forms in this packet, you can take control of choices regarding your medical future.

In 1991 Ohio recognized your right to have a Living Will. This was in addition to Ohio's other recognized advance directive at that time, the Health Care Power of Attorney. In 1998, Ohio recognized yet another tool to help you and your physician do effective health care planning called a DNR (Do-Not-Resuscitate) Comfort Care or Comfort Care Arrest Order. All of these measures help put control over future medical choices in your hands.

The Living Will allows you to decide and document, in advance, the type of care you would like to receive if you were to become permanently unconscious or terminally ill and unable to communicate. The Health Care Power of Attorney

enables you to select someone to make decisions for you.

A person who does not wish to have Cardiopulmonary Resuscitation (CPR) performed may make this wish known through a doctor's order called a DNR Order. A DNR Order addresses the various methods used to revive people whose hearts have stopped functioning (cardiac arrest) or people who have stopped breathing (respiratory arrest). In 1998 a DNR Law was established to help people communicate their wishes about resuscitation to medical personnel inside or outside a hospital or nursing home setting. It allows emergency medical workers to honor a person's physician-written DNR Order in the home, nursing home or various other settings. The 1998 DNR Law also protects emergency squads and other health care providers from liability if they follow a person's DNR Order.

Following the establishment of the 1998 DNR Law, the Ohio Department of Health established two DNR Comfort Care orders which allow people to choose the extent of the treatment they wish to receive at the end of life. A person with

a "DNR" Comfort Care Arrest Order" will receive all the appropriate medical treatment until the

person has a cardiac or respiratory arrest, at which point only comfort care will be provided. By requesting the broader "DNR" Comfort Care Order a person is choosing to have only comfort care measures provided should an event occur that is life threatening or ending. Your physician or health care provider can explain the differences in DNR Orders.

In addition to the Living Will and Health Care Power of Attorney forms, you will find a copy of the Uniform Organ Donation card in this packet. This card should be used to indicate your desire to be an organ donor upon your death. Also included in this packet is information about DNR Orders and about hospice choice, which offers further information about end-of-life issues and options.

It is important to understand what Ohio's laws do or do not do in regards to expressing your desires, goals and wishes by using tools such as Ohio's Advance Directives. This packet is meant to educate you about Ohio's Living Will, Health Care Power of Attorney, Organ Donation and the new 1998 DNR Law. The goal is to provide you with the information you need to document your future health care decisions. The information and forms in this packet are made available to you through the collaborative effort of the Ohio Hospice & Palliative Care Organization, the Ohio State Medical Association, the Ohio Hospital Association and the Ohio Osteopathic Association. The Ohio

State Bar Association prepared the forms. After reviewing the contents of this packet, you might have additional questions or concerns specific to your personal situation. In such a case, it is important that you discuss your concerns with your family, your physician and your lawyer.

If you choose, you can fill out the Living Will or Health Care Power of Attorney forms by yourself you are not required to use a lawyer. However, since these are important legal documents, you might wish to consult a lawyer for advice.

In contrast, a DNR Order cannot be completed without the help and skill of a physician. A physician, certified nurse practitioner or clinical nurse specialist, as appropriate, must complete a DNR Order. If you would like to indicate that you do not wish to have cardiopulmonary resuscitation, you will need to have a discussion with your physician. Your physician can explain the differences between DNR Orders and their application.

The issues involved in drafting or determining one's wishes regarding a DNR Order, Living Will or Health Care Power of Attorney are very important. We hope this information and these materials are useful in helping you to make a decision that is comfortable for you and your family

Your Questions Answered

"Living Will and Health Care Power of Attorney"

Q: Aren't Living Wills or Health Care Powers of Attorney just for older people?

A: It is important for anyone over age 18 to think about filling out one or both of these documents. Serious illness or injury can strike at any stage of life. A Living Will or Health Care Power of Attorney will help to ensure that your wishes regarding life-sustaining treatment are followed regardless of age, and that when you are no longer able to voice your own wishes, your prior decisions are followed or made for you by the person you choose.

Q: Can I include the fact that I wish to donate my organs after death through a Living Will or Health Care Power of Attorney?

A: The best way to ensure that your organs will be donated after death is to complete the Uniform Organ Donation card included in this packet.

Q: If I state in my Living Will that I don't want to be hooked up to life support equipment, will I still be given medication for pain?

A: Yes. A Living Will affects only care that artificially or technologically postpones death. It would not affect care that eases pain. For example, you would continue to be given pain medication and other treatments necessary to keep you comfortable.

The same is true with a Health Care Power of

Attorney. The person you name to make your health care decisions would not be able to order the withholding of treatments that provide you comfort or alleviate pain.

Q: If I have a Living Will, won't my Physician be more likely to give up on me if I become really sick?

A: No. Physicians have a duty to maintain life as long as there is hope of recovery. A Living Will simply allows you to determine how much life-sustaining treatment you wish to receive in order to postpone dying once two physicians have determined that you will not recover.

Q: Which is better to have, a Living Will or a Health Care Power of Attorney?

A: Actually, it is a good idea to fill out both documents because they address different aspects of your medical care. A Living Will applies only when you are terminally ill and unable to communicate your wishes or if you are permanently unconscious.

A Health Care Power of Attorney becomes effective even if you are **only** temporarily unconscious and medical decisions need to be made. For example, if you were to become temporarily unconscious due to an accident or surgery, the person you name in your Health Care Power of Attorney could make medical decisions on your behalf.

If you have both documents and become

terminally ill and unable to communicate or become permanently unconscious, the Living Will would be followed since it speaks to your

wishes in these situations.

Q: When does a Living Will or Health Care Power of Attorney become effective?

A: A Living Will becomes effective if you are terminally ill and unable to express your wishes regarding health care or if you are permanently unconscious. In both cases, two physicians, not just one, must agree that you are beyond medical help and will not recover. If you have indicated that you do not want your dying to be artificially prolonged and two physicians say that there is no reasonable hope of recovery, your wishes will be carried out.

A Health Care Power of Attorney becomes effective whenever you lose the ability to make your own decisions, even if only temporarily. At these times, health care decisions will be made by the person you designate.

Q: Can I draft a Living Will or Health Care Power of Attorney that says if I become critically ill, I want everything possible done to keep me alive?

A: Yes. But you can't use the standard forms in this packet. You would need to speak with an attorney about drafting a special document. You also may want to discuss this approach with your personal physician.

Q: If I name someone in my Health Care Power of Attorney to make decisions for me, how much authority does that person have and how can I be certain that he or she is doing what I want done?

A: The person you name as your attorney-in-fact has the authority to make decisions regarding aspects of your medical care if you

become unable to express your wishes. For this reason, you should tell the person you name how you feel about life sustaining treatment, being fed through feeding and fluid tubes, and other important issues.

Also, it is important to remember that a Health Care Power of Attorney is not the same as a financial Power of Attorney, which you might use to give someone authority over your financial or business affairs.

Q: If my condition becomes hopeless, can I specify that I want my feeding and fluid tubes removed?

A: Special instructions are needed to allow for the removal of feeding or fluid tubes if you become permanently unconscious and if the feeding and fluid tubes aren't needed to provide you with comfort.

If you want to make certain that the tubes are removed should you become permanently unconscious, you need to place your initials on the space provided on the Living Will or Health Care Power of Attorney form. If you don't want the tubes removed when you are permanently unconscious, then don't initial the forms.

Q: Do I have to use the standard forms for a Living Will or Health Care Power of Attorney or can I draw up my own documents?

A: The enclosed forms, which were produced jointly by the Ohio State Bar Association, the Ohio State Medical Association, the Ohio Hospital Association and the Ohio Hospice & Palliative Care Organization, comply with the requirements of Ohio law, but you do not have to use these forms. You may wish to consult an attorney

for assistance in drafting a document or you may draft your own. However, in either case, the documents must comply with the specific

language spelled out in the Ohio Revised Code.

Ohio's Living Will

What you should know about Living Wills:

A **Living Will** is a document that allows you to establish, in advance, the type of medical care you would want to receive if you were to become permanently unconscious, or if you were to become terminally ill and unable to tell your physician or family what kind of life-sustaining treatments you want to receive.

- A Living Will is used only in situations where you are unable to tell your physician what kind of health care services you want to receive. Before your Living **Will** would go into effect, you either must be:

(1) terminally ill (that means two physicians have determined that you have no reasonable chance of recovery) and unable to tell your physician your wishes regarding health-care services

OR

(2) permanently unconscious. To be considered permanently unconscious, two physicians (one of whom must be a medical specialist in an appropriate field) must decide that you have no reasonable possibility of regaining consciousness.

Regardless of your condition, if you were able to speak and tell your physician what you want to do about life-prolonging treatments, then the Living **Will** wouldn't be used – your physician would just talk directly with you about your wishes. A Living Will is used by the physician only if you are unable to tell him or her what you want done.

- A Living Will gives your physician the authority to withhold all life-sustaining treatment and permit you to die naturally and take no action to postpone your death, providing you with only that care necessary to make you comfortable and relieve your pain. This may include writing a DNR Order or withdrawing life-sustaining treatment such as CPR.

Such "comfort care" also may include removing nutrition and hydration (food and water) that is administered through feeding tubes or intravenously. If you wish to give your physician this authority if you become permanently unconscious, there is a space on the Living Will form that you must initial. If you want nutrition and hydration to be continued, regardless of the circumstances, don't initial this space.

- * A Living Will can be honored only if your attending physician and others know about it. It is important to let your physician and your family and friends know that you have a Living Will before you become ill. After all, a Living **Will** can't be enforced if people don't know that it exists. In fact, it is a good idea for you to give your attending physician a copy of your Living Will. It also is important to give copies to family and friends so that, if necessary, they can advise your physician that you have a Living Will. In addition, it is important that you notify a health care facility that you have a Living Will when you are admitted as a patient. Please note: You do **not** have to go to court to put your Living Will into effect.
- Once the decision to withhold life-sustaining treatment is made, your physician must make a reasonable effort to notify the person or persons you designate in your Living Will or your closest family member.
- The law allows your family members to challenge a physician's determination that you have a terminal illness or that you are in a permanently unconscious state. This challenge is limited in nature and may be made only by your closest relatives. The law does not, however, allow your family members to challenge your own legally documented decision not to be resuscitated.
- If you have both a Living Will and a **Health Care Power of Attorney (a Health Care Power of Attorney lets you appoint someone to make health care decisions for you if you become unable to express your wishes)**, the physician must comply with the wishes you state in your Living Will. In other words, your Living Will takes precedence over your **Health Care Power of Attorney**. There is a space on the Living **Will** form that you may check to let your physician and family and friends know that you have a Health Care **Power of Attorney**.
- You can revoke your Living Will at any time. You can do this by simply telling your physician and family that you have changed your mind and wish to revoke your Living Will. It is a good idea to ask anyone who has a copy of the document to return it to you.

How to fill out the Living Will form:

You should use this form to let your physician and your family know what kind of life sustaining treatments you want to receive if you become terminally ill or permanently unconscious and unable to express your wishes.

NOTE:

1. Read over all information carefully. Definitions are included as part of the form
2. On the first two lines of the form, print your full name and birth date.
3. On the fourth page of the form, written in bold typeface under ***Special Instructions*** is the statement that will give your physician permission to withhold food and fluids in the event you are permanently unconscious. If you want to give your physician permission to withhold food and water in this situation, then you must place your initials on the line indicated in number 3.
4. The next section of the form (immediately below the ***Special Instructions***) provides space for you to list the names, addresses and phone numbers of the contacts (usually family members and close friends) that you want your physician to notify when the Living **Will** goes into effect.
Remember, the Living Will goes into effect only when you are terminally ill or permanently unconscious and you cannot express your own wishes about the health care you receive.
5. Following the "list contacts" **is a space to check whether or not you have completed a Health Care Power of Attorney Immediately below this space is where you date and sign the form. Remember, the Living Will is not considered valid or effective unless you do one of the following:**

First Option Date and sign the Living Will in the presence of two witnesses, who also must sign and include their addresses and indicate the date of their signatures.

OR

Second Option –Date and sign the Living Will in the presence of a notary public and have the Living **Will notarized** on the appropriate space provided on the form.

The following people may not serve as a witness to your Living Will:

- Anyone related to you by blood, marriage or adoption (this includes your husband or wife and your children)
- Your attending physician;
- If you are in a nursing home, the administrator of the nursing home.

6. Once you have filled out the **Living Will** and either signed it in the presence of witnesses or in the presence of a notary public, then it is a good idea to give a copy to your personal physician and any family members you have listed in the Living Will. In Ohio, people are allowed (but not required) to register their Living Wills with the county recorder. Formally registering a Living Will helps make certain that a copy will be available when it is needed. However, it is important to keep in mind that a registered Living Will form becomes a public record.